



1850 M. Street, N.W., Suite 1100  
Washington, DC 20036

March 13, 1996

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William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M St., NW  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

DOCKET FILE COPY ORIGINAL

Re: **BOC Provision of Out-of-Region Interstate,  
Interexchange Services, CC Docket No. 96-21**

Dear Mr. Caton:

Attached please find an original plus nine copies of Sprint's comments in the above-captioned proceeding. In addition, Sprint has provided Ms. Janice Myles of the Common Carrier Bureau with a copy of our comments on diskette in WordPerfect 5.1 format.

Sincerely,

Norina Moy  
Director, Federal Regulatory  
Policy and Coordination

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Bell Operating Company Provision ) CC Docket No. 96-21  
of Out-Of-Region Interstate, )  
Interexchange Services )

COMMENTS

Sprint Communications Company, L.P. hereby respectfully submits its comments in response to the above-captioned Notice of Proposed Rulemaking ("NPRM") released February 14, 1996 (FCC No. 96-59). Sprint supports adoption of a regulatory framework which allows BOCs to choose between dominant and non-dominant regulation for their provision of out-of-region interstate, interexchange services based upon whether such services are provided directly or through an affiliate.

In the instant NPRM, the Commission has sought comments on the appropriate regulatory regime to govern the BOCs' provision of out-of-region interstate, interexchange services. The Commission has tentatively concluded (§1) that if a BOC provides such services through "an affiliate that satisfies the separation requirements established in the *Competitive Carrier* proceeding, the BOC affiliate should be regulated as a non-dominant carrier."<sup>1</sup> BOCs offering out-of-region interstate, interexchange services directly (*i.e.*, on an unseparated basis) would be regulated as dominant carriers.

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<sup>1</sup> Footnote and citations omitted. These requirements are that the affiliate must maintain separate books of account; not

Footnote continued on next page

Careful regulatory oversight of the BOCs' out-of-region interstate, interexchange services is crucial to ensuring that such services are provided on a reasonable and nondiscriminatory basis. As the Commission pointed out (§9), the BOCs "continue to control bottleneck local exchange facilities in their in-region states." Because of this control over bottleneck facilities, the BOCs have both the incentive and ability to exercise their market power to the detriment of competition and customers in both the out-of-region IX market and the in-region access services market. In particular, there is serious concern that, in the absence of adequate safeguards, a BOC might terminate its in-region IX traffic at access rates lower than those assessed on non-affiliated IXCs.<sup>2</sup> This would give the BOC long-distance affiliate an unwarranted cost advantage over other long-distance carriers, would distort competition in the long distance market, and would force independent IXCs to subsidize the bottleneck terminating access services used by the BOC-affiliated IXC.

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jointly own transmission or switching facilities with the BOC local exchange company; and obtain any BOC exchange telephone company services at tariffed rates and conditions (*Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, Fifth Report and Order*, 98 FCC 2d 1191, 1198 (1984)).

<sup>2</sup> In CC Docket No. 94-1 (*Price Cap Performance Review for Local Exchange Carriers*), various BOCs have asserted that they should be given the flexibility to provide interstate access services on a contract tariff or other individual customer basis. So long as the BOCs retain market power, this type of pricing flexibility should be prohibited, since it would enable the BOCs to engage in precisely the type of discriminatory activity which the instant NPRM seeks to prevent.

Giving the BOCs the option of dominant or non-dominant regulation for their out-of-region interstate, interexchange services, depending upon whether such services are provided directly or through a separate affiliate, is a flexible approach to allowing the BOCs into this market while protecting against anti-competitive abuses. Dominant carrier regulation where the BOC chooses to provide out-of-region IX services directly is clearly warranted. This type of regulatory oversight helps to ensure that interested parties have sufficient time and cost support information to assess the reasonableness of a BOC's out-of-region interstate, interexchange service offerings. Sprint would emphasize that meaningful review of the rates is possible only if the BOCs' cost support is made publicly available and is sufficiently detailed.<sup>3</sup>

BOCs opting for non-dominant regulatory status for their out-of-region interstate, interexchange services should be required to comply with the separate affiliate requirements articulated in Section 272(b) of the 1996 Telecommunications Act.<sup>4</sup> Non-dominant regulation offers almost no opportunity to

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<sup>3</sup> The BOCs have been submitting an increasing number of interstate access tariff filings which include requests for confidential treatment of certain cost information. If this practice is tolerated as part of dominant carrier BOC IX service offerings, the effectiveness of the tariff review process will be severely compromised.

<sup>4</sup> The Act specifies that the separate affiliate required by this section

(1) shall operate independently from the Bell operating company;

(2) shall maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from

*Footnote continued on next page*

review the tariff filings of a BOC affiliate before such filings go into effect. Therefore, stringent separate subsidiary rules must be adopted if the threat of discriminatory or cross-subsidized rates and service offerings is to be mitigated.<sup>5</sup>

The separate affiliate rules set forth in the Act are stricter than those developed in the *Competitive Carrier* proceeding for independent LECs and proposed in the instant NPRM. However, because of their size (in terms of access lines, revenues, assets, etc.) and their generally contiguous geographic service territories, the potential harm from any anti-competitive activity by a BOC is far greater than is likely to be the case for an independent LEC. Therefore, it is not unreasonable to implement stricter safeguards and regulatory requirements on the BOCs than apply to independent LECs.

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the books, records, and accounts maintained by the Bell operating company of which it is an affiliate;


- (3) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;
- (4) may not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and
- (5) shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection.

<sup>5</sup> Although Sprint would allow non-dominant regulation for BOCs satisfying the structurally separate affiliate conditions (as set forth in Section 272(b)) for out-of-region interstate, interexchange services, nondominant regulation should not apply to any BOC separate affiliate which provides in-region interstate, interexchange services. In-region services provided by the dominant BOC present special problems which warrant additional regulatory oversight.

The 1996 Telecommunications Act requires that the BOCs establish structurally separate affiliates to provide in-region interstate, interexchange services. Given this requirement, it would be simpler from an auditing standpoint -- and possibly from a BOC management perspective as well -- to implement this affiliate structure for all of a BOC's interexchange services (both in-region and out-of-region) from the beginning. Once the BOCs are allowed to provide in-region interstate, interexchange services, it seems a virtual certainty that many of the same personnel, processes, plant and equipment, etc., used to provide out-of-region interstate, interexchange services will also be used to provide in-region services. Establishing a separate subsidiary for out-of-region services would help to ensure that in-region services are handled appropriately and thus constitutes an additional safeguard to ensure compliance with the Act.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY, L.P.

  
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March 13, 1996

**CERTIFICATE OF SERVICE**

I, Joan A. Hesler, hereby certify that on this 13th day of March, 1996, a true copy of the foregoing COMMENTS OF SPRINT COMMUNICATIONS CO., L.P. was Hand Delivered, to each of the parties listed below.

  
Joan A. Hesler

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